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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/834,842 | 04/13/2001 | Joseph D. Schroeder | 03192- P0001B GSW | 8394 |
| 24126 | 7590 | 04/19/2004 | EXAMINER | |
| ST. ONGE STEWARD JOHNSTON & REENS, LLC | | | LEVY, NEIL S | |
| 986 BEDFORD STREET | | | ART UNIT | |
| STAMFORD, CT 06905-5619 | | | PAPER NUMBER | |

1616

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,842

Applicant(s)

SCHROEDER ET AL.

Examiner

Neil Levy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/1/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38, 40 is/are pending in the application.
- 4a) Of the above claim(s) 1-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36, 37, 38, 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-38, 40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected ^{election} ~~claim~~, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. ~~11~~ ^{11*}.

Claims 36, 38, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Gould et al 4451635.

See col.3, lines 39-51-A polyurethane backbone chain covalently reacted through carboxyl groups to form polyurethane ammonium sulfate (top,col.4) and other quaternary side chains (example III and IV). The resultant charged polymer usable as film is at example X, and XV as an intrauterine device. This is the instant invention although descriptive presentation of its inherent effects as antimicrobial are absent.

Claims 36, 38, 40 are rejected under 35 U.S.C. 102(b) as being anticipated by (Kenawy et al '98).

P.146 teaches polymer backbones to which functional, non-leaching as non-hydrolysable of polycationic biocides of quaternary ammonium or phosphonium salts. Effective antimicrobial activity is shown at 2.3, p.146.

Claims 36-38 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by CHAAFE et al 4247476).

Polymeric quaternary ammonium salts as bactericides are old (col.1, lines 9-11). Cationic ammonium salts (col.1, (1), (2)), are provided with straight chain forms (col.2,

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lines 52-58) and polymers for textile use are specified as those of instant claim 37 (col.14, lines 14-23). Pyridinium salts are also envisioned, table 2.

Claims 36-38 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Stovicek-50840966.

See claim 1; clearly anticipatory.

Applicant's arguments with respect to claims 36-38 and 40 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday through Friday from 7a.m to 5:30p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NEIL S. LEVY
PRIMARY EXAMINER